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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,262	07/30/2001	Walter V. Klemp	HO-P01776US1	4897

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EXAMINER

BOGART, MICHAEL G

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 07/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/919,262

Applicant(s)

KLEMP, WALTER V.

Examiner

Michael G. Bogart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 5-15, 20-25, 27, 33, 35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5-15, 20-25, 27, 33, 35 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s) _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Drawings

The drawings in this application are acceptable for examination purposes only. Formal drawings will be required upon allowance of this case.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18, 21, 22, 24, 33 and 36 are rejected under 35 U.S.C. § 102(b) as being anticipated by Bridges (US 5,236,430 A).

Regarding claims 18 and 33, Bridges teaches a method of making a stretchable ear portion (30) in a composite web structure for forming a disposable absorbent garment (20), said method comprising the steps of:

providing a first layer (46) having a longitudinal front end, a back longitudinal end, and a pair of opposing lateral edges therebetween;

providing a second layer (48) having a longitudinal front end, a back longitudinal end, and a pair of opposing lateral edges therebetween;

providing an absorbent core (22);

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providing a stretchable member (90) contractible from a stretched position to a contracted configuration;

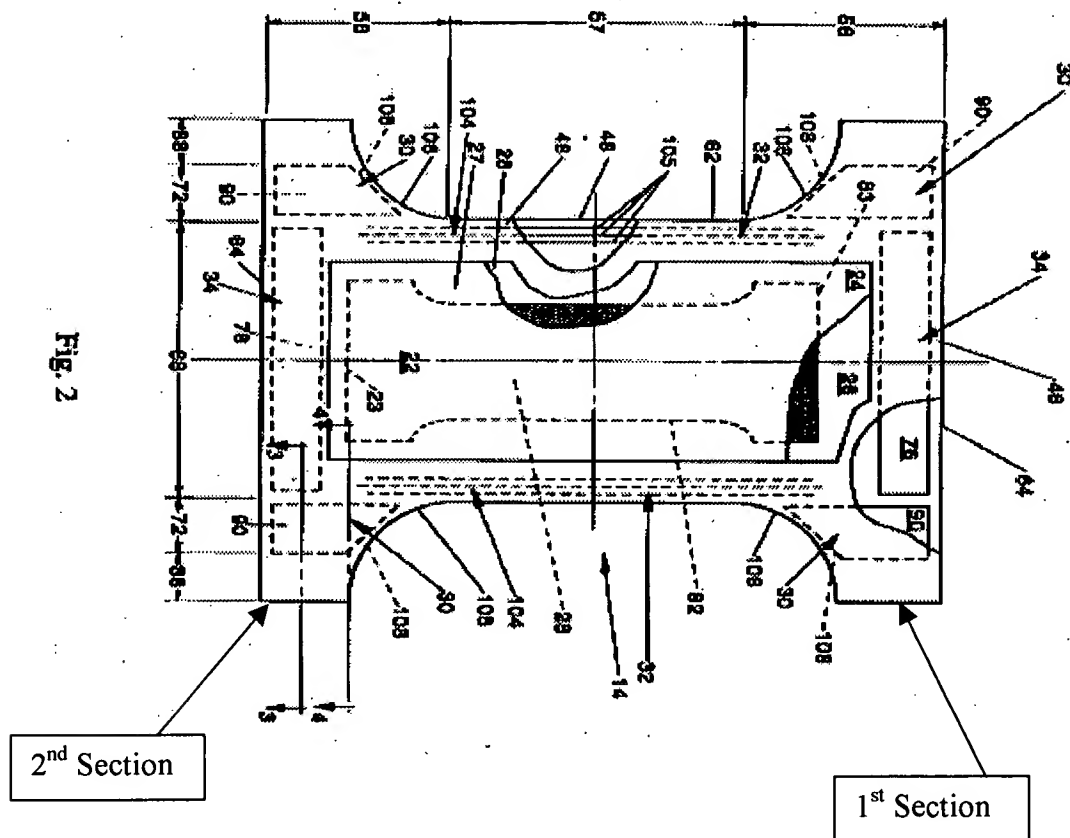
positioning said stretchable member (90) adjacent a first section of said first layer (46), said first section being located proximate one of said lateral edges and one of said longitudinal ends of said first layer (46) and having an inside surface and an outside surface generally opposite said inside surface;

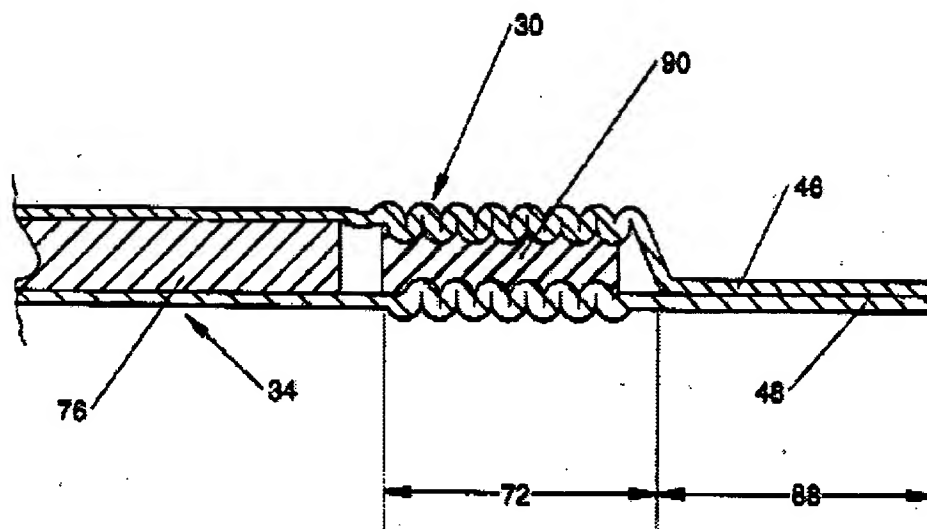
securing said inside surface to said surface of said stretchable member (90) when said outside surface is disposed in a substantially planar configuration and said stretchable member is disposed in a stretched configuration, such that said first section is subsequently extendible with said stretchable member (90) from a contract configuration to an extended configuration wherein said outer surface is returned unaltered to said substantially planar configuration; and

securing said first layer (46), said second layer (48) and said absorbent core (22) together to form a web structure having a central longitudinal plane and including a front region (56) that includes said front longitudinal ends and a pair of ear portions (30) extending in substantially opposite lateral directions with respect to said longitudinal plane, a back region (58) including said back longitudinal ends and a pair of ear portions (30) extending in substantially opposite lateral directions with respect to said longitudinal plane, and a crotch region (57) disposed between said front region (56) and said back region (58), whereby said stretchable member and said first section are included in one of said ear portions (30) to form a stretchable ear portion (30)(see Figs. 2 and 3, below)(Col. 9, lines 23-40). It is noted that the applied reference recites a general description of the above structure, including a diaper having an ear (30) with an elastic member (90) stretch-bonded between two outer layers (46, 48). The reference incorporates by

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references US 3,860,003 ('003) and US 4,081,301 ('301), both to Buell, which describe in greater detail, methods of stretch-bonding (i.e., stretching an elastic member, bonding it to an unstrained substrate(s), and subsequently allowing the laminate of the two to contract, causing the substrate to gather).



**Fig. 3**

Regarding claims 21 and 36, Bridges, incorporating by reference '003 and '301, teach the step of positioning said stretchable member (90) adjacent a second section of said second layer (48) in the same matter as the first layer (46).

Regarding claims 22 and 24, see Fig. 2, above.

Claim Rejections 35 USC § 102/103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1, 3, 5, 7-15, 25, 27, 28, and 30-32 are rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Bridges, incorporating by reference '003 and '301.

Regarding claims 1, 3, 15, 25 and 27 Bridges teaches a topsheet (46);

a backsheet (48); and

an absorbent core (22) disposed between said topsheet (46) and said backsheet (48), said topsheet (46), said backsheet (48) and said absorbent core (22) being assembled together to form a layered assembly (20) including a front region (56) a back region (58) and a crotch region (57) disposed between said front region (56) and said back regions (58),

wherein each of said front and back regions (56, 58) further includes at least a pair of ear portions (30) extending in substantially opposite lateral directions with respect to said longitudinal plane, and

wherein at least one of said ear portions (30) includes a layered section comprising an outer material layer (46, 48) having an inside surface and an outside surface, and an elastic stretchable non-permanently elongated member (90) extendable between a contracted configuration and an extended, non-permanently elongated configuration, said inside surface being secured to a corresponding surface of said stretchable member (90) when said stretchable member (90) is disposed in an extended configuration and said outside surface is disposed in a substantially planar configuration, such that said outer material (46, 48) is subsequently contractible then extendable with said stretchable member (90) and such that said outside surface is returnable to said substantially planar configuration without permanent elongation of said outer material layer (46, 48) and said stretchable non-permanently elongated member (90)(see

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Fig. 3)(Col. 9, lines 23-40). When adequate mechanical energy is applied to stretch the device shown in Fig. 3, the outside surface materials (46, 48) will return to a planar form. This stretching will not permanently elongate the outer surface material because this was the material natural configuration before being bonded to the elastic material.

It is the interpretation of the Examiner, that the disclosed stretchable material is inherently non-permanently elongated, because after being elongated due to applied mechanical energy, once that mechanical energy is removed, the material will contract to a non-elongated state. If this property of the disclosed stretchable material is not inherent, it would have been at least obvious to one of ordinary skill in the art to provide a stretchable material, that once extended, would contract to a non-elongated state so as to provide elasticity.

Regarding claims 5 and 28, see Fig. 3, above.

Regarding claim 7, see Fig. 1.

Regarding claims 8 -10, 12 and 30-32, see Fig. 2, above.

Regarding claims 11, 13 and 14, Bridges teaches a stretchable member (90) disposed between two outer layers (46, 48)(Fig. 2).

Claims 6, 20 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bridges as applied to claims 1, 3, 5, 7-15, 18, 21, 22, 24, 25, 27, 28, 30-33 and 36 above, and further in view of Wood *et al.* (US 4,857,067).

Bridges discloses the claimed invention except for the stretchable member being heat-elasticizable.

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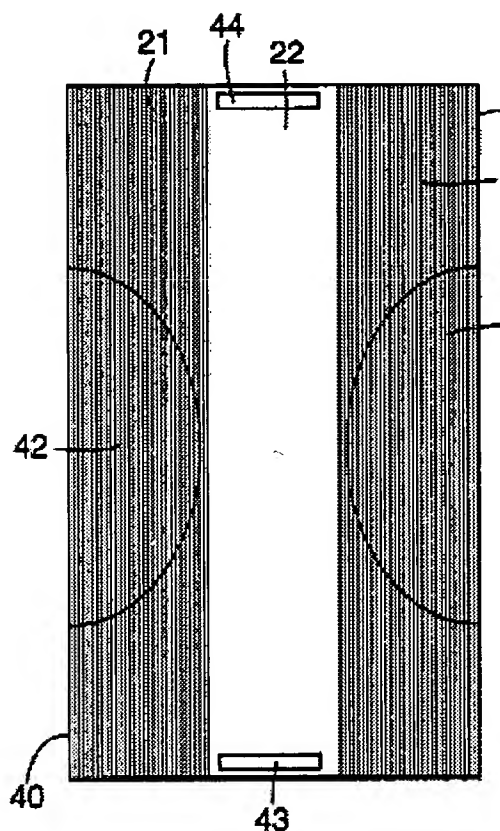
Wood *et al.* teach a diaper which employs a heat-elastizable material (30, 31) in the diaper's ears to render them elastic. Heat elastizable materials are commonly employed in the disposable diapers industry to economically impart elasticity (col. 1, lines 48-63).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to combine the heat elastizable material of Wood *et al.* with the device taught by Bridges in order to provide for commonly available elastization of that device.

Claims 23 and 35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bridges as applied to claims 1, 3, 5, 7-15, 18, 21, 22, 24, 25, 27, 28, 30-33 and 36 above, and further in view of Helmer (US 5,807,368 A).

Bridges teaches the claimed invention except for the step of cutting out the leg portions.

Helmer teaches the step of cutting out the leg portions of a diaper (Fig. 8, below)(col. 10, lines 4-13).



At the time of the invention, it would have been obvious to one of ordinary skill in the art to combine the leg hole cutting technique with the method of making a diaper as taught by Bridges in order to provide a well known and efficient manufacturing step for providing leg holes.

Conclusion

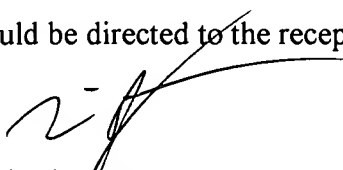
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (703) 605-1184. The examiner can normally be reached Monday-Friday.

In the event the examiner is not available, the examiner's supervisor, Weilun Lo may be reached at phone number (703) 308-1957. The fax phone numbers for the organization where


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this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for informal communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0858.



Michael Bogart
July 2, 2003



WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700